

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1125 be amended to read as follows:

- 1 Page 2, between lines 3 and 4, begin a new paragraph and insert:
- 2 "SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.144-2007,
- 3 SECTION 3, AS AMENDED BY P.L.211-2007, SECTION 19, AND
- 4 AS AMENDED BY P.L.223-2007, SECTION 1, IS CORRECTED
- 5 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3.5. When used in this
- 7 article, the term "adjusted gross income" shall mean the following:
- 8 (a) In the case of all individuals, "adjusted gross income" (as
- 9 defined in Section 62 of the Internal Revenue Code), modified as
- 10 follows:
- 11 (1) Subtract income that is exempt from taxation under this article
- 12 by the Constitution and statutes of the United States.
- 13 (2) Add an amount equal to any deduction or deductions allowed
- 14 or allowable pursuant to Section 62 of the Internal Revenue Code
- 15 for taxes based on or measured by income and levied at the state
- 16 level by any state of the United States.
- 17 (3) Subtract one thousand dollars (\$1,000), or in the case of a
- 18 joint return filed by a husband and wife, subtract for each spouse
- 19 one thousand dollars (\$1,000).
- 20 (4) Subtract one thousand dollars (\$1,000) for:
- 21 (A) each of the exemptions provided by Section 151(c) of the
- 22 Internal Revenue Code;
- 23 (B) each additional amount allowable under Section 63(f) of
- 24 the Internal Revenue Code; and
- 25 (C) the spouse of the taxpayer if a separate return is made by
- 26 the taxpayer and if the spouse, for the calendar year in which
- 27 the taxable year of the taxpayer begins, has no gross income
- 28 and is not the dependent of another taxpayer.
- 29 (5) Subtract:
- 30 (A) for taxable years beginning after December 31, 2004, one
- 31 thousand five hundred dollars (\$1,500) for each of the

1 exemptions allowed under Section 151(c)(1)(B) of the Internal
2 Revenue Code (as effective January 1, 2004); and

3 (B) five hundred dollars (\$500) for each additional amount
4 allowable under Section 63(f)(1) of the Internal Revenue Code
5 if the adjusted gross income of the taxpayer, or the taxpayer
6 and the taxpayer's spouse in the case of a joint return, is less
7 than forty thousand dollars (\$40,000).

8 This amount is in addition to the amount subtracted under
9 subdivision (4).

10 (6) Subtract an amount equal to the lesser of:

11 (A) that part of the individual's adjusted gross income (as
12 defined in Section 62 of the Internal Revenue Code) for that
13 taxable year that is subject to a tax that is imposed by a
14 political subdivision of another state and that is imposed on or
15 measured by income; or

16 (B) two thousand dollars (\$2,000).

17 (7) Add an amount equal to the total capital gain portion of a
18 lump sum distribution (as defined in Section 402(e)(4)(D) of the
19 Internal Revenue Code) if the lump sum distribution is received
20 by the individual during the taxable year and if the capital gain
21 portion of the distribution is taxed in the manner provided in
22 Section 402 of the Internal Revenue Code.

23 (8) Subtract any amounts included in federal adjusted gross
24 income under Section 111 of the Internal Revenue Code as a
25 recovery of items previously deducted as an itemized deduction
26 from adjusted gross income.

27 (9) Subtract any amounts included in federal adjusted gross
28 income under the Internal Revenue Code which amounts were
29 received by the individual as supplemental railroad retirement
30 annuities under 45 U.S.C. 231 and which are not deductible under
31 subdivision (1).

32 (10) Add an amount equal to the deduction allowed under Section
33 221 of the Internal Revenue Code for married couples filing joint
34 returns if the taxable year began before January 1, 1987.

35 (11) Add an amount equal to the interest excluded from federal
36 gross income by the individual for the taxable year under Section
37 128 of the Internal Revenue Code if the taxable year began before
38 January 1, 1985.

39 (12) Subtract an amount equal to the amount of federal Social
40 Security and Railroad Retirement benefits included in a taxpayer's
41 federal gross income by Section 86 of the Internal Revenue Code.

42 (13) In the case of a nonresident taxpayer or a resident taxpayer
43 residing in Indiana for a period of less than the taxpayer's entire
44 taxable year, the total amount of the deductions allowed pursuant
45 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
46 which bears the same ratio to the total as the taxpayer's income
47 taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed

as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

~~(23)~~ **(24)** Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(25) Subtract any amount of a credit (including an advance refund of the credit) that is provided to an individual under 26 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and included in the individual's federal adjusted gross income.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in

1 service to take deductions under Section 179 of the Internal
 2 Revenue Code in a total amount exceeding twenty-five thousand
 3 dollars (\$25,000).

4 (8) Add an amount equal to the amount that a taxpayer claimed as
 5 a deduction for domestic production activities for the taxable year
 6 under Section 199 of the Internal Revenue Code for federal
 7 income tax purposes.

8 (9) Add to the extent required by IC 6-3-2-20 the amount of
 9 intangible expenses (as defined in IC 6-3-2-20) and any directly
 10 related intangible interest expenses (as defined in IC 6-3-2-20) for
 11 the taxable year that reduced the corporation's taxable income (as
 12 defined in Section 63 of the Internal Revenue Code) for federal
 13 income tax purposes.

14 *(10) Add an amount equal to any deduction for dividends paid (as*
 15 *defined in Section 561 of the Internal Revenue Code) to*
 16 *shareholders of a captive real estate investment trust (as defined*
 17 *in section 34.5 of this chapter).*

18 ~~(10)~~ **(11)** Subtract income that is:

19 (A) exempt from taxation under IC 6-3-2-21.7; and

20 (B) included in the corporation's taxable income under the
 21 Internal Revenue Code.

22 (c) In the case of life insurance companies (as defined in Section
 23 816(a) of the Internal Revenue Code) that are organized under Indiana
 24 law, the same as "life insurance company taxable income" (as defined
 25 in Section 801 of the Internal Revenue Code), adjusted as follows:

26 (1) Subtract income that is exempt from taxation under this article
 27 by the Constitution and statutes of the United States.

28 (2) Add an amount equal to any deduction allowed or allowable
 29 under Section 170 of the Internal Revenue Code.

30 (3) Add an amount equal to a deduction allowed or allowable
 31 under Section 805 or Section 831(c) of the Internal Revenue Code
 32 for taxes based on or measured by income and levied at the state
 33 level by any state.

34 (4) Subtract an amount equal to the amount included in the
 35 company's taxable income under Section 78 of the Internal
 36 Revenue Code.

37 (5) Add or subtract the amount necessary to make the adjusted
 38 gross income of any taxpayer that owns property for which bonus
 39 depreciation was allowed in the current taxable year or in an
 40 earlier taxable year equal to the amount of adjusted gross income
 41 that would have been computed had an election not been made
 42 under Section 168(k) of the Internal Revenue Code to apply bonus
 43 depreciation to the property in the year that it was placed in
 44 service.

45 (6) Add an amount equal to any deduction allowed under Section
 46 172 or Section 810 of the Internal Revenue Code.

47 (7) Add or subtract the amount necessary to make the adjusted

gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) *Subtract income that is:*

(A) *exempt from taxation under IC 6-3-2-21.7; and*

(B) *included in the insurance company's taxable income under the Internal Revenue Code.*

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been

computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) *Subtract income that is:*

(A) *exempt from taxation under IC 6-3-2-21.7; and*

(B) *included in the insurance company's taxable income under the Internal Revenue Code.*

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

1 (7) *Subtract income that is:*

2 (A) *exempt from taxation under IC 6-3-2-21.7; and*

3 (B) *included in the taxpayer's taxable income under the*
4 *Internal Revenue Code.*

5 (f) This subsection applies only to the extent that an individual paid
6 property taxes in 2004 that were imposed for the March 1, 2002,
7 assessment date or the January 15, 2003, assessment date. The
8 maximum amount of the deduction under subsection (a)(17) is equal
9 to the amount determined under STEP FIVE of the following formula:

10 STEP ONE: Determine the amount of property taxes that the
11 taxpayer paid after December 31, 2003, in the taxable year for
12 property taxes imposed for the March 1, 2002, assessment date
13 and the January 15, 2003, assessment date.

14 STEP TWO: Determine the amount of property taxes that the
15 taxpayer paid in the taxable year for the March 1, 2003,
16 assessment date and the January 15, 2004, assessment date.

17 STEP THREE: Determine the result of the STEP ONE amount
18 divided by the STEP TWO amount.

19 STEP FOUR: Multiply the STEP THREE amount by two
20 thousand five hundred dollars (\$2,500).

21 STEP FIVE: Determine the sum of the STEP FOUR amount and
22 two thousand five hundred dollars (\$2,500)."

23 Page 30, between lines 8 and 9, begin a new paragraph and insert:

24 "SECTION 20. [EFFECTIVE JANUARY 1, 2008
25 (RETROACTIVE)] **IC 6-3-1-3.5, as amended by this act, applies to**
26 **taxable years beginning after December 31, 2007.**".

27 ReNUMBER all SECTIONS consecutively.

(Reference is to EHB 1125 as printed February 13, 2008.)

Senator KENLEY